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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

1 Mitchell J. Stein (SBN 121750)  
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6 Attorneys for Plaintiff ARC FINANCE GROUP LLC

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10  
11 ARC FINANCE GROUP LLC, a  
12 Delaware Limited Liability Company,

13 Plaintiff,

14 vs.

15 UNITED STATES DEPARTMENT OF  
16 JUSTICE; UNITED STATES  
SECURITIES AND EXCHANGE  
COMMISSION,

17 Defendants.

Case No. **CV11 05180 GHK AJWx**

**COMPLAINT FOR VIOLATION OF  
FREEDOM OF INFORMATION ACT [5  
U.S.C. § 552]; VIOLATION OF  
PRIVACY ACT [5 U.S.C. § 552a]; FOR  
DECLARATORY RELIEF AND FOR  
INJUNCTIVE RELIEF**

## INTRODUCTION

1  
2 1. As President Obama directed on January 21, 2009, “a democracy requires  
3 accountability, and accountability requires transparency.” President Obama cited to Justice  
4 Louis Brandeis when he said “sunlight is said to be the best of disinfectants.” In his  
5 memorandum to the Heads of Executive Departments and Agencies, President Obama instructed:

6 In our democracy, the Freedom of Information Act, which encourages  
7 accountability through transparency, is the most prominent expression of a  
8 profound national commitment to ensuring an open Government. At the heart of  
that commitment is the idea that accountability is in the interest of the  
Government and the citizenry alike.

9 The Freedom of Information Act should be administered with a clear  
10 presumption: In the face of doubt, openness prevails. The Government should  
11 not keep information confidential merely because public officials might be  
embarrassed by disclosure, because errors and failures might be revealed, or  
because of speculative or abstract fears....

12 2. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. §  
13 552, and the Privacy Act, 5 U.S.C. § 552a, for injunctive and other appropriate relief. It seeks  
14 the disclosure and release of records improperly withheld from Plaintiff ARC FINANCE  
15 GROUP LLC, a Delaware Limited Liability Company, by Defendants UNITED STATES  
16 SECURITIES AND EXCHANGE COMMISSION (“SEC”) and UNITED STATES  
17 DEPARTMENT OF JUSTICE (“DOJ”), including, but not limited to, through the acts of its  
18 agent Charles Cain.

## JURISDICTION AND VENUE

20  
21 3. This Court has both subject matter jurisdiction over this action and personal  
22 jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331. Venue  
23 lies in this District under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

24 4. This action is supported – indeed mandated – by the Executive Order of the  
25 President of the United States on the Freedom of Information Act, his Memorandum on  
26 Transparency and Open Government, and the memorandum of the Attorney General of the  
27 United States on the Freedom of Information Act.  
28

## STATUTORY FRAMEWORK

5. FOIA, 5 U.S.C. § 552, mandates disclosure of records held by a federal agency in response to a request for such records by a member of the public unless such records fall within certain narrow statutory exemptions.

6. The basic purpose of FOIA is to enable the public to hold the government accountable for its actions, through transparency and public scrutiny of governmental operations and activities. Through access to government information, FOIA helps the public better understand the government, thereby enabling a vibrant and functioning democracy.

7. Any member of the public may make a request for records to an agency of the United States under FOIA. An agency that receives a FOIA request must respond in writing to the requestor within 20 business days after receipt of the request. (5 U.S.C. § 552(a)(6)(A)(I).)

8. In response to such request, the agency must inform the requestor whether or not it intends to comply with the request, provide reasons for its determination, and inform the requestor of his or her right to appeal the determination. (*Id.*)

9. A FOIA requestor who has been denied records may appeal the denial to the agency. The agency must make a determination on the appeal within 20 business days of receipt of the appeal. (5 U.S.C. § 552(a)(6)(A)(ii).)

10. A FOIA requestor is deemed to have exhausted all administrative remedies once his or her appeal of a denial has itself been denied. (5 U.S.C. § 552(a)(6).)

11. Upon complaint, a district court has jurisdiction to enjoin the agency from withholding records and to order production of records that are subject to disclosure. (5 U.S.C. § 552(a)(4)(B).)

## STATEMENT OF FACTS

12. Plaintiff was a shareholder in a corporation – Heart Tronics, Inc. – that developed a first-of-its-kind ambulatory heart EKG machine in conjunction with technology developed alongside the United States Air Force. Heart Tronics, Inc. has never had any dispute with the Air Force regarding or relating to this technology or the EKG machine.

13. This EKG machine has been proven to save lives, including the life of one Josh

1 Nails – a teenager who would be dead had it not been for a screening using the Heart Tronics  
2 device.

3 14. On December 22, 2010, Plaintiffs' counsel wrote to Defendants and requested  
4 certain records pertaining to Signalife, Inc., formerly known as Heart Tronics. Inc., under FOIA.

5 15. In a letter dated January 6, 2011, Defendants denied Plaintiff's request for records  
6 related to Signalife, Inc., stating that such records could not be produced, pursuant to 5 U.S.C. §  
7 552(b)(7)(A) and 17 CFR § 200.80(b)(7)(i), because it would "interfere with [law] enforcement  
8 activities." (This letter of denial is attached hereto as Exhibit 1.)

9 16. On February 4, 2011, Plaintiffs' counsel appealed Defendants' decision to  
10 withhold the documents that Plaintiff had requested under FOIA. (This letter of appeal is  
11 attached hereto as Exhibit 2.)

12 17. On February 17, 2011, Defendants notified Plaintiff by mail that her appeal of the  
13 decision to withhold records pertaining to Signalife, Inc. had been denied. (This letter of denial  
14 of appeal is attached hereto as Exhibit 3.)

15 18. Plaintiff alleges that there is no "law enforcement" reason to withhold the  
16 requested documents as Defendants claim, and that Defendants are intimately aware that there  
17 are no such "law enforcement activities" that are ongoing or ever were ongoing. Thus,  
18 Defendants have resorted to using false excuses in order to avoid complying with FOIA.

#### 19 REQUESTED RELIEF

20 WHEREFORE, Plaintiff prays that this Court:

21 A. Order Defendants to disclose the requested records in their entireties and  
22 make copies available to Plaintiff;

23 B. Order Defendants not to destroy any records related to Plaintiff's Freedom  
24 of Information Act request;

25 C. Order Defendants to produce destruction documents for all records related  
26 to this complaint that were already destroyed;

27 D. Provide for expeditious proceedings in this action pursuant to 28 U.S.C. §  
28 1657;

1 F. Award Plaintiff its costs and reasonable attorney's fees incurred in this  
2 action, as provided in 5 U.S.C. § 552(a)(4)(E)); and

3 F. Grant such other relief as the Court may deem just and proper.

4 Respectfully submitted,

5 Dated: June 20, 2011

MITCHELL J. STEIN & ASSOCIATES LLP  
MITCHELL J. STEIN  
ERIKSON M. DAVIS

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7  
8 By: 

9 Mitchell J. Stein  
10 Attorneys for Plaintiff  
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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
STATION PLACE  
100 F STREET, NE  
WASHINGTON, DC 20549-2736

Office of FOIA Services

January 6, 2011

Mr. Philip A. Kramer  
Kramer & Kaslov  
23901 Calabasas Road, Suite 2013  
Calabasas, CA 91302

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552  
Request No. 11-02227-FOIA

Dear Mr. Kramer:

This letter responds to your request, dated December 22, 2010, and received in this office on December 27, 2010, for certain records pertaining to Signalife, Inc.

We are withholding nonpublic records that may be responsive to your request under 5 U.S.C. § 552(b)(7)(A), 17 CFR § 200.80(b)(7)(i). This exemption protects from disclosure records compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement activities. Since Exemption 7(A) protects the records from disclosure, we have not determined if other exemptions apply. Therefore, we reserve the right to assert other exemptions when Exemption 7(A) no longer applies.

Because the underlying circumstances may change, we may later disclose some of the exempt records. If you wish, you may request them again six months from the date of this letter.

You have the right to appeal our decision to our General Counsel under 5 U.S.C. § 552(a)(6), 17 CFR § 200.80(d)(5) and (6). Your appeal must be in writing, clearly marked "Freedom of Information Act Appeal," and should identify the requested records. The appeal may include facts and authorities you consider appropriate.

EXHIBIT 1

Mr. Philip Kramer

11-02227-FOIA

January 6, 2011

Page Two

Send your appeal to the Office of FOIA Services of the Securities and Exchange Commission located at Station Place, 100 F Street NE, Mail Stop 2736, Washington, D.C. 20549, or deliver it to Room 1120 at that address. Also, send a copy to the SEC Office of the General Counsel, Mail Stop 9612, or deliver it to Room 1120 at the Station Place address.

If you have any questions, please contact Ronnye L. Hall of my staff at [hallr@sec.gov](mailto:hallr@sec.gov) or (202) 551-8353. You may also contact me at [foiapa@sec.gov](mailto:foiapa@sec.gov) or (202) 551-7900.

Sincerely,

A handwritten signature in black ink, appearing to be "JD" or similar, with a long horizontal line extending to the right.

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John Livornese  
FOIA Branch Chief

THE LAW OFFICES OF

KRAMER & KASLOW

A PROFESSIONAL CORPORATION

WWW.KRAMER-KASLOW.COM

TELEPHONE: (818) 224-3900

FACSIMILE: (818) 224-3911

23901 CALABASAS ROAD, SUITE 2013  
CALABASAS, CALIFORNIA 91302

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February 4, 2011

FOIA Appeals Officer  
FOIA Services of the Securities and Exchange Commission  
Station Place  
100 F Street, NE  
Mail Stop 2736  
Washington, D.C. 20549

Re: Freedom of Information Act Appeal of  
**Request No. 11-02227-FOIA**

Dear FOIA Appeals Officer:

Please be advised that I represent ARC FINANCE GROUP, LLC and TRACEY HAMPTON-STEIN. This is an appeal, on behalf of my clients under the Freedom of Information Act.

On December 22, 2010, I requested documents under the Freedom of Information Act on behalf of my clients. The request was assigned the following identification number: Request No. 11-02227-FOIA. On January 8, 2011, I received a letter signed by Mr. John Livornese denying the FOIA request made on behalf of clients.

I hereby appeal the denial of Request No. 11-02227-FOIA.

A copy of the agency determination, which is the subject of this appeal, is attached hereto.



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CALABASAS, CALIFORNIA 91302

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### LEGAL ARGUMENT

In its response denying disclosure of the requested information, the Securities and Exchange Commission ("SEC") asserts the information requested is exempt from disclosure under 5 U.S.C. § 552(b)(7)(A), because it constitutes "records compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement activities."

The documents requested by my client and withheld by the SEC must be disclosed under FOIA because the SEC cannot justify its assertion of Exception 7(A) under the law.

In order to withhold materials under Exemption 7(A), an agency has the burden of establishing that the exception at issue may be properly asserted under the law. Enviro Tech Intern., Inc. v. U.S. E.P.A., 371 F. 3d 370, 374 (7th Cir. 2004) ("The government bears the burden of proving by a preponderance of the evidence that a withheld document falls within one of the exemptions"); Hanson v. U.S. Agency for Intern. Develop., 372 F. 3d 286, 290 (4th Cir. 2004) (The government has the burden); Public Citizen Health Research Group v. Food & Drug Admin., 185 F. 3d 898, 904 (D.C. Cir. 1999) ("[T]he agency has the burden of showing that requested information comes within a FOIA exemption" quoting Niagara Mohawk Power Corp. v. U.S. Dept. of Energy, 169 F. 3d 16, 18 (D.C. Cir. 1999)).

To justify assertion of the exception here at issue, Exception 7(A), the SEC bears the burden of establishing that; (1) the records requested and at issue were compiled for law enforcement purposes, and; (2) the records at issue can reasonably be expected to interfere with enforcement proceedings. See Pratt v. Webster, 673 F. 2d 408, 413 (D.C. Cir. 1982); 5 U.S.C. § 552(b)(7)(A).

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To meet its burden under subpart (1) above, the SEC must demonstrate that “the files sought relate to anything that can fairly be characterized as an enforcement proceeding.” Tax Analysts v. I.R.S., 294 F. 3d 71, 78 (D.C. Cir. 2002) *citing* Rural Housing Alliance v. U.S. Dept. of Agriculture, 498 F. 2d 73 (D.C. Cir. 1974) *opinion supplemented on other grounds* 511 F. 2d 1347 (D.C. Cir. 1974). There are two types of investigatory files that government agencies compile; files in connection with government oversight of the performance of duties by its employees, and files in connection with investigations that focus directly on specific alleged illegal acts which could result in civil or criminal sanctions. *Id.* Because here the records at issue involve a private actor, rather than a government employee, the SEC must identify an investigation that focuses directly upon specific alleged illegal acts to justify the SEC’s assertion of Exception 7(A).

To meet its burden under subpart (2) above, the SEC must outline a cogent 2-part analysis focusing on (a) whether a law enforcement proceeding is pending or prospective, and (b) whether release of information about it could reasonably be expected to cause some articulable harm. The mere pendency of enforcement proceedings is an inadequate basis to invoke the exception at issue. Courts hold the government must also establish that some distinct harm could reasonably be expected to result if the record or information requested were disclosed. Neill v. Dept. of Justice by Reno, 1994 WL 88219 (D.C. Cir. 1994) at \*1 (Explaining that conclusory affidavit lacked specificity of description necessary to ensure meaningful review of agency’s Exemption 7(A) claims). Specificity is required of the SEC in defending its invocation of the law enforcement exception; it is well established that an agency must be able to point to a specific pending or contemplated law enforcement proceeding that could be harmed by disclosure. Mapother v. Dept. of Justice, 3 F. 3d 1533, 1542 (D.C. Cir. 1993) (“We believe that a categorical approach is appropriate in determining the likelihood of enforcement proceedings... Otherwise, we must exercise our faculties as mind-readers.”); Nat’l

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Sec. Archive v. F.B.I., 759 F. Supp. 872, 883 (D.D.C. 1991) (Reasoning that FBI's justification that disclosure would interfere with its overall counterintelligence program "must be rejected" as too general to be type of proceeding cognizable under Exemption 7(A), and permitting FBI to demonstrate whether there existed any specific pending or contemplated law enforcement proceedings).

### ANALYSIS

The SEC did not justify its assertion of the law enforcement proceeding exception, Exception 7(A). Indeed, the SEC cannot plausibly claim it is investigating attempts by others to sabotage the Fidelity 100 heart device here at issue because, in two years of investigation: (a) the SEC did not seek discovery from any witness or agency appertaining or relating to such important matters, and; (b) the SEC intentionally did not seek investigative discovery from the multi-national companies possessing the source information. Therefore, the SEC did not demonstrate that: (1) the records requested were compiled for law enforcement purposes, and; (2) the records at issue can reasonably be expected to interfere with enforcement proceedings, because the SEC has not identified; (a) a specific pending or prospective law enforcement proceeding related to the FOIA request, and (b) that this specific request could reasonably be expected to cause some articulable harm. This, assertion of Exception 7(A) was erroneous and is unsupported in law.

Accordingly, the SEC must disclose the requested information to my clients.

### CONCLUSION

For the foregoing reasons, I respectfully request the SEC reverse its denial of Request No. 11-02227-FOIA, and disclose the requested information.

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A PROFESSIONAL CORPORATION

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TELEPHONE: (818) 224-3900

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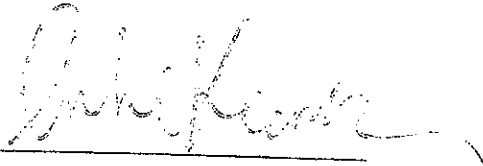
23901 CALABASAS ROAD, SUITE 2010  
CALABASAS, CALIFORNIA 91302

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Thank you for your consideration of this appeal. If you have any questions or require additional information, please do not hesitate to contact me.

Very Truly Yours,



Philip A. Kramer

Kramer & Kaslow

23901 Calabasas Rd., Suite 2010

Calabasas, CA 91302

(818) 224-3900

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
OFFICE OF THE GENERAL COUNSEL  
100 F Street, N.E.  
Washington, D.C. 20549-9612

**THIS FACSIMILE TRANSMISSION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM OR TO WHICH IT IS ADDRESSED. IT MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL OR OTHERWISE PROTECTED FROM DISCLOSURE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED AND MAY VIOLATE APPLICABLE LAW. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND DESTROY THE ORIGINAL MESSAGE. THANK YOU.**

March 7, 2011

Please deliver the following pages to:

Name: Philip A. Kramer, Esq.

Fax Number: 818-224-3911

Subject: foia no. 11-2227

Total number of pages (including this cover sheet): ~~4~~

From: Celia Jacoby

Telephone Number: 202-551-5158

Telecopier Number: 202-772-9263

Notes:

Letter 2-17-11 and envelop as returned

**EXHIBIT 3**



OFFICE OF THE  
GENERAL COUNSEL

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

Stop 9612

February 17, 2011

Philip A. Kramer, Esq.  
Kramer & Kaslow  
23901 Calabasas Road, Suite 2013  
Calabasas, CA 91302

Re: Appeal, Freedom of Information Act (FOIA) Request No. 2011-2227

Dear Mr. Kramer:

I am responding to your February 4, 2011, Freedom of Information Act appeal of the decision of the FOIA/Privacy Act Officer, Securities and Exchange Commission, denying your request for certain investigative records relating to Signalife, Inc. On January 8, 2011, the FOIA Officer denied your request pursuant to FOIA Exemption 7(A).<sup>1</sup> On appeal, you question that assertion. I have considered your appeal and it is denied.

I am satisfied that the FOIA Officer correctly asserted Exemption 7(A). Staff responsible for this matter have confirmed that releasing the withheld information could reasonably be expected to interfere with an on-going enforcement proceeding. *See OKC Corp. v. Williams*, 489 F. Supp. 576 (N.D. Tex. 1980) (SEC is not required to disclose requested materials directly tied to a pending investigation); *National Public Radio v. Bell*, 431 F. Supp. 509, 514-15 (D.D.C. 1977) (Congress intended that Exemption 7(A) would apply where disclosure may impede any necessary investigation prior to court proceedings); *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232 (1978) (Congress intended that Exemption 7(A) would apply "whenever the Government's case in court \* \* \* would be harmed by the premature release of evidence or information"); *Accuracy in Media, Inc. v. U.S. Secret Service*, C.A. No. 97-2108, 1998 U.S. Dist. Lexis 5798, at \*11 (D.D.C. April 16, 1998) (affirmation that there is an active and on-going investigation is enough).

Further, under Exemption 7(A), an agency may withhold records if they come within categories of records whose disclosure would generally interfere with enforcement proceedings.

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<sup>1</sup>Exemption 7(A) authorizes the withholding of "records or information compiled for law enforcement purposes, but only to the extent that production of such law enforcement records or information . . . could reasonably be expected to interfere with enforcement proceedings." 5 U.S.C. 552(b)(7)(A), 17 CFR 200.80(b)(7)(i).

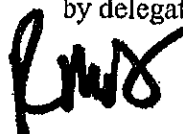
Philip A. Kramer, Esq.  
February 17, 2011  
Page 2

*Robbins Tire*, 437 U.S. at 236; *see also Solar Sources, Inc. v. United States*, 142 F.3d 1033, 1038 (7<sup>th</sup> Cir. 1998) ("the Government may justify its withholdings by reference to generic categories of documents"). The documents you seek come within categories whose disclosure would generally interfere with enforcement proceedings. To the extent that your appeal suggests that a *Vaughn* index should have been provided, it is settled that a requester is not entitled to receive one during the administrative processing of a FOIA request. *See Sakamoto v. EPA*, 443 F. Supp.2d 1182, 1189 (N.D. Cal. 2006); *Schwarz v. Dept. of the Treasury*, 131 F. Supp.2d 142, 147 (D.D.C. 2000) ("[T]here is no requirement that an agency provide . . . a '*Vaughn*' index on an initial request for documents."); *Edmond v. U.S. Attorney*, 959 F. Supp. 1, 5 (D.D.C. 1997) (rejecting, as premature, request for *Vaughn* index when the agency had not processed plaintiff's request).

Should you have a continuing interest in this information, you may contact the FOIA Office within six months of the date of this letter to determine if the status of the on-going law enforcement proceeding has changed. As Exemption 7(A) precludes the release of the information at this time, no determination has been made concerning the applicability of any other FOIA exemptions. The Commission reserves the right to review the information to assert any other exemption when Exemption 7(A) is no longer applicable. *See LeForce & McCombs, P.C. v. Dept. of Health and Human Services*, Case No. Civ-04-176-SH (E.D. Okla. Feb. 3, 2005) (an agency does not waive the right to invoke exemptions by not invoking such exemption during the administrative processing of a FOIA request).

You have the right to seek judicial review of my determination with respect to Exemption 7(A) by filing a complaint in the United States District Court for the District of Columbia or in the district where you reside or have your principal place of business. *See* 5 U.S.C. 552(a)(4)(B). Voluntary mediation services as a non-exclusive alternative to litigation are also available through the Office of Government Information Services (OGIS). For more information, please contact OGIS at [ogis@nara.gov](mailto:ogis@nara.gov), [www.archives.gov/ogis](http://www.archives.gov/ogis), or 1-877-684-6448. If you have any questions concerning my determination, please call Celia Jacoby, Senior Counsel, at 202-551-5158.

For the Commission  
by delegated authority,



Richard M. Humes  
Associate General Counsel



**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge George King and the assigned discovery Magistrate Judge is Andrew J. Wistrich.

The case number on all documents filed with the Court should read as follows:

**CV11- 5180 GHK (AJWx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

===== :  
**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☒ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.



**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT CALIFORNIA**  
**CIVIL COVER SHEET**

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ) ARC FINANCE GROUP LLC	<b>DEFENDANTS</b> UNITED STATES DEPARTMENT OF JUSTICE; UNITED STATES SECURITIES AND EXCHANGE COMMISSION
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)  Mitchell J. Stein, Erikson M. Davis, MITCHELL J. STEIN & ASSOCIATES LLP, 28720 Canwood Street, Suite 204, Agoura Hills, CA 91301 Phone (877) 475-2448	<b>Attorneys (If Known)</b>

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input checked="" type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <tr> <th style="width:40%;"></th> <th style="width:10%; text-align: center;">PTF</th> <th style="width:10%; text-align: center;">DEF</th> <th style="width:30%;"></th> <th style="width:10%; text-align: center;">PTF</th> <th style="width:10%; text-align: center;">DEF</th> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

<b>IV. ORIGIN</b> (Place an X in one box only.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
--

<b>V. REQUESTED IN COMPLAINT:</b> <b>JURY DEMAND:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Check 'Yes' only if demanded in complaint.) <b>CLASS ACTION</b> under F.R.C.P. 23: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <b>MONEY DEMANDED IN COMPLAINT:</b> \$ _____
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<b>VI. CAUSE OF ACTION</b> (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) Violation of Freedom of Information Act 5 U.S.C. § 552
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<b>VII. NATURE OF SUIT</b> (Place an X in one box only.)
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<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input checked="" type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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CV11 05180

FOR OFFICE USE ONLY: Case Number: \_\_\_\_\_

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT CALIFORNIA  
CIVIL COVER SHEETVIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or  
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.

☒ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.

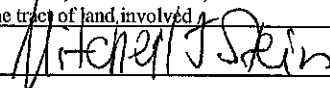
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved.

X. SIGNATURE OF ATTORNEY (OR PRO PER):



Date June 20, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935ff(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

Mitchell J. Stein (SBN 121750)  
 Erikson M. Davis (SBN 197841)  
 MITCHELL J. STEIN & ASSOCIATES LLP  
 28720 Canwood Street, Suite 204  
 Agoura Hills, California 91301  
 Phone: (877) 475-2448

**UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA**

ARC FINANCE GROUP LLC, a Delaware Limited  
 Liability Company,

PLAINTIFF(S)

v.

UNITED STATES DEPARTMENT OF JUSTICE;  
 UNITED STATES SECURITIES AND EXCHANGE  
 COMMISSION,

DEFENDANT(S).

CASE NUMBER

CV11-05180-GHK(AJWx)

**SUMMONS**

TO: DEFENDANT(S): UNITED STATES DEPARTMENT OF JUSTICE;  
UNITED STATES SECURITIES AND EXCHANGE COMMISSION

A lawsuit has been filed against you.

Within 60 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Mitchell J. Stein, Esq., whose address is 28720 Canwood Street, Suite 204, Agoura Hills, California 91301. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

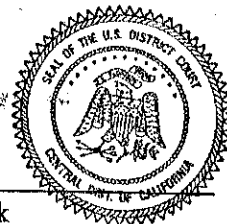
Clerk, U.S. District Court

Dated: 6-24-11

By: TANYA DURANT

Deputy Clerk

(Seal of the Court)



1188

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].